

RESOLUTION NO. 4456

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A STORM DRAINAGE EASEMENT FOR PIERCE COUNTY

WHEREAS, the Valley Regional Fire Authority ("VRFA") is constructing a new facility known as the Lakeland Fire Station #33, which construction requires improvements to the Pierce County ("County") roads; and

WHEREAS, as a condition of construction of these road improvements, Pierce County requires the stormwater runoff from those road improvements be managed in a stormwater facility owned by the City of Auburn ("City"); and

WHEREAS, the proposed easement sets out the rights and responsibilities regarding stormwater runoff from the road and associated road improvements between the County and the City; and

WHEREAS, a separate agreement sets out the rights and responsibilities related to stormwater on the facility site between the City and VRFA; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, HEREBY RESOLVES as follows:

Section 1. That the Mayor is hereby authorized to grant a Storm Drainage Easement in substantially the same form as at Exhibit A to Pierce County.

Section 2. That the Mayor is authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation.

Section 3. That this Resolution shall take effect and be in full force upon passage and signatures hereon.

Dated and Signed this _____ day of _____, 2009.

CITY OF AUBURN

PETER B. LEWIS
MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

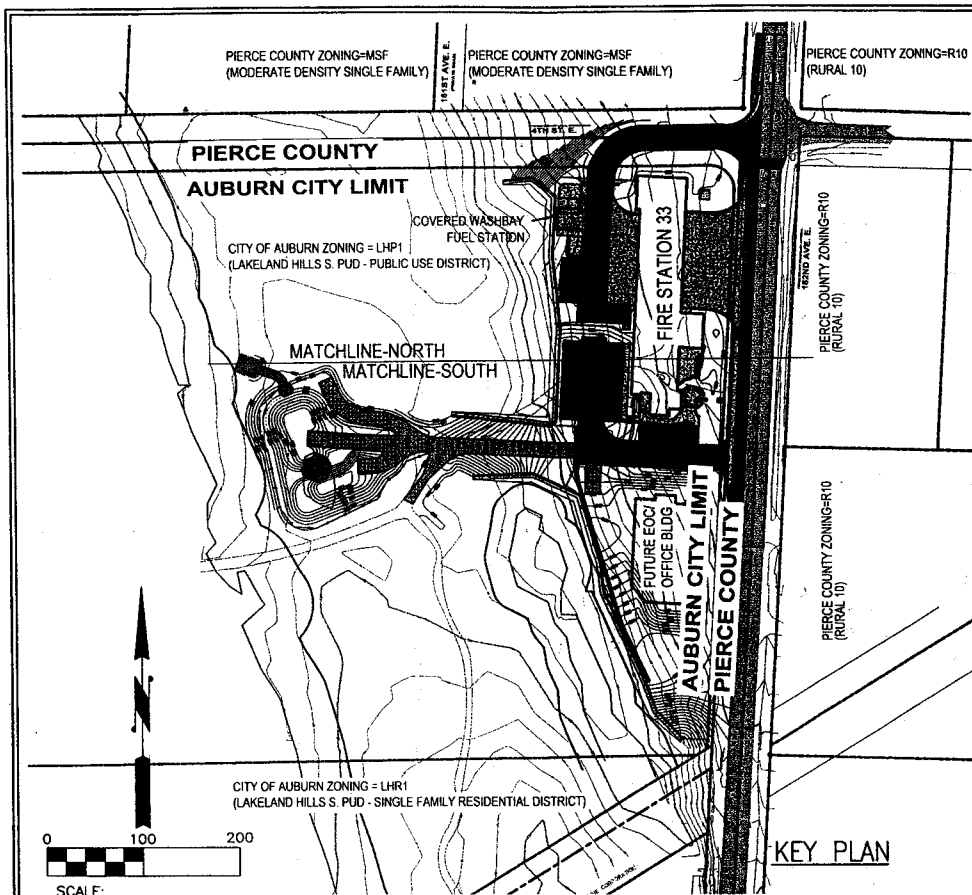


Daniel B. Heid, City Attorney

NEW FIRE STATION 33

A PORTION OF

SE 1/4 OF THE NE 1/4, SECTION 5, TOWNSHIP 20 NORTH, RANGE 5 EAST, W.M.
PIERCE COUNTY, WASHINGTON



CONSTRUCTION NOTES:

1. THE CONTRACTOR SHALL NOTIFY ENGINEER IN THE EVENT OF DISCOVERY OF UNSUITABLE SOILS, OR DISCREPANCIES FROM THE PLANS AND EXISTING CONDITIONS.
2. NO PROPOSED SITE OR OFFSITE SIDEWALK OR HANDICAP RAMP SHALL EVER HAVE A CROSS SLOPE OF LESS THAN 0.5 PERCENT (ONLY THAT MINIMUM IN RARE CASES) NOR MORE THAN 2.0 PERCENT.
3. NO SITE SIDEWALK SHALL EVER HAVE A LONGITUDINAL SLOPE OF LESS THAN 0.5 PERCENT, NOR MORE THAN 2.0 PERCENT, BECAUSE IF IT DOES, IT IS DEFINED BY HANDICAP CODES A HANDICAP RAMP.
4. NO HANDICAP RAMP SHALL EVER HAVE A LONGITUDINAL SLOPE OF LESS THAN 0.5 PERCENT (ONLY THAT MINIMUM IN RARE CASES).
5. NO HANDICAP RAMP SHALL HAVE A SLOPE MORE THAN 2.0 PERCENT UNLESS:
 - A. IT IS THEN AT OR LESS THAN A SLOPE OF 5.0 PERCENT IF IT HAS NO HANDRAILS, AND THE RAMP ALSO HAS 30 INCHES VERTICALLY MAXIMUM BETWEEN LANDINGS OF AT LEAST 5.0 FEET BY 5.0 FEET THAT ARE AT NO MORE THAN 2.0 PERCENT SLOPE, OR
 - B. IT IS THEN AT OR LESS THAN A SLOPE OF 8.33 PERCENT (12H TO 1V) WITH HANDRAILS, AND THE RAMP ALSO HAS 30 INCHES VERTICALLY MAXIMUM BETWEEN LANDINGS OF AT LEAST 5.0 FEET BY 5.0 FEET THAT ARE AT NO MORE THAN 2.0 PERCENT SLOPE.
6. HANDICAP PARKING STALLS, AND THE LOADING AREAS BETWEEN THE STALLS SHALL HAVE A SLOPE OF NO LESS THAN 1.0 PERCENT IF CONCRETE (ONLY THAT MINIMUM IN RARE CASES), OR 1.0 PERCENT AND NO MORE THAN 2.0 PERCENT ON ASPHALT.
7. ALL CURBS, EXCEPT WHERE TRANSITIONING AT RAMPS, SHALL BE EITHER ZERO HEIGHT, OR 6 INCHES IN HEIGHT, UNLESS SPECIFICALLY CALLED OUT ON THE PLANS TO BE SOME DIFFERENT HEIGHT.
8. LANDSCAPE SLOPES SHALL NOT BE LESS THAN 2.0 PERCENT, NOR MORE THAN 3H TO 1 V.
9. IF ANY ITEMS OF POSSIBLE CULTURAL OR HISTORIC SIGNIFICANCE ARE ENCOUNTERED DURING CONSTRUCTION ACTIVITIES, WORK SHALL BE HALTED IN AN AREA LARGE ENOUGH TO MAINTAIN INTEGRITY AND THE CITY AND THE STATE OFFICE OF ARCHEOLOGY AND HISTORIC PRESERVATION AND THE MUCKLESHOOT TRIBE SHALL BE IMMEDIATELY CONSULTED.

After recording return to:

Pierce County Planning and Land Services Department
Development Engineering Division
2401 South 35th Street
Tacoma, WA 98409

S/T/R _____

File Name Auburn Valley Fire Station #33

Application No. 649102

P.C.D.E. File No. 35-125A

**STORM DRAINAGE EASEMENT FOR PUBLIC
STORMWATER RUNOFF (DISCHARGE) TO**

(REPRESENTATIVE)

For purposes of this agreement and for indexing by the Auditor as required by R.C.W.
Ch. 65.04, the parties to this agreement are:

City of Auburn, WA, their/its heirs,
successors, or assigns, hereinafter Grantor, and "the Grantee" "Pierce County," or "County."

RECITALS:

Whereas, Grantor is the owner of real property as described below (hereinafter referred to as the "Private Stormwater Facility") in Pierce County, Washington.

LEGAL DESCRIPTION OF PROPERTY: (Abbreviated legal description if complete legal will not fit here and reference to where complete legal can be found.)

See Attachment - (Page 5)

Assessor Parcel No. (s) 0530051032

Whereas, Grantor is required by the Pierce County Development Regulations to make certain road improvements that accommodate stormwater runoff from the public road known as 4th St. E and 183rd Ave. E (hereinafter referred to as **Public Road**). A brief description of the improvements is as follows; Road, curb, and sidewalk alterations to accommodate the new Lakeland Fire Station #33, per application #649102.

REPRESENTATIVE STORM DRAINAGE EASEMENTIDOC

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Whereas, Grantor agrees to receive the stormwater runoff from the **Public Road** into the **Grantor's Private Stormwater Facility** in response to the above development requirement.

Whereas, Grantor's property will be burdened by receiving additional stormwater from the **Public Road**, and it will be benefited by having additional land to develop.

Whereas, Grantor will be solely responsible for operating, maintaining and repairing all components of the **Private Stormwater Facility** per the approved and accepted maintenance plan.

NOW THEREFORE, for and in consideration of mutual benefits and in further consideration of the general public welfare and of the peculiar and special benefits to accrue therefrom, and in consideration of the performance by Grantee of the covenants, terms, and conditions hereinafter set forth, Grantor and Grantee agree as follows:

1. Perpetual Easement. Grantor(s), its heirs, its successors and assigns, grant to Grantee, its appointed and elected officers, employees, and agents, a perpetual and assignable easement with the right of immediate entry and continued access for the purpose of inspecting the Private Stormwater Facility and allowing stormwater to flow from the Public Road into the Private Stormwater Facility over, under and across the property described on page 1. Additionally, all rights, title and privileges granted under this easement, including the benefits and burdens, shall run with the land and shall be binding upon and inure to the parties hereto, their respective heirs, devisees, executors, administrators, grantees, assigns and successors in interest.

2. Costs of Construction and Maintenance of the Private Stormwater Facility. Grantor(s) shall bear all costs, expenses, and risks arising out of or in any way relating to the inspection, construction, operation, maintenance, and repair of the **Private Stormwater Facility**. Grantor is fully responsible for constructing, operating, maintaining and repairing this drainage system that crosses the property described on page 1. Grantor responsibilities shall also include but not be limited to:

- a. Clearing culverts in Grantor's stormwater drainage system.
- b. Grantor is responsible for the adequacy of the stormwater drainage system design.
- c. Grantor is responsible for controlling the stormwater runoff that will be created by the development.
- d. The drainage course crossing this plat shall be retained and kept free and open to pass stormwater runoff through this or future subdivisions.

If upon inspection by Grantee, the storm drainage system is not being properly maintained or repaired, Grantee shall make the necessary repairs and all expenses for those repairs or maintenance shall be paid by Grantor.

3. Indemnification and Hold Harmless. The Grantor agrees to defend, indemnify and save harmless Grantee, its appointed and elected officers and employees, from and against all losses and expense, including but not limited to judgments, settlements, attorney fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, arising out of the granting of this easement or the exercise of the rights granted to Grantee, whether such injury to persons or damage to property is due to the negligence of the Grantor, its or their employees or agents, Grantee, its appointed or elected officers, or its employees or agents, except only such injury or damage as shall have been occasioned by the sole negligence of the Grantee, its appointed or elected officials or employees or agents.

If the claim, suit, or action for injuries, death, or damages as provided for in the preceding paragraph of this contract is caused by or results from the concurrent negligence of (a) the Grantor or the Grantor's agents or employees, and (b) the Grantee or the Grantee's agents or employees, the indemnity provisions provided for in the preceding paragraph of this contract shall be valid and enforceable only to the extent of Grantor's negligence.

4. **Release for Flooding or Water Quality Issues of Property.** Grantor, its successors and assigns hereby release and hold Grantee harmless from any and all liability or damage caused by the storm water flow or water quality across the property described on page 1, which may arise in any manner whatsoever.

5. **Successors and Assigns.** The rights and obligations of the Grantor and Grantee as set forth in this agreement is binding upon and shall inure to the benefit of its/their respective successor(s) and assign(s), and the appointed or elected officials, agents, and employees thereof, subject to the following condition: Grantee shall not assign its rights hereunder without the prior written consent of Grantor, which consent shall not be unreasonably withheld. No assignment of the privileges and benefits inuring to Grantee or assignment of the obligations or liabilities of Grantee, whether by operation of law or otherwise, shall be valid without the prior written consent of Grantor, which consent shall not be unreasonably withheld.

6. **Compliance with Laws and Rules.** Grantee shall comply with all environmental permits, rules and regulations, and any other applicable statutes, rules, regulations whether federal, state, or municipal, relating to the **Private Stormwater Facility**.

7. **Notice.** Any notice provided for or concerning this agreement shall be in writing and shall be deemed given when sent by certified or registered mail if sent to the respective address of each party as set forth below.

To Grantor: Public Works Director
City of Auburn
25 West Main Street
Auburn, WA 98001-4998

To Grantee: Public Works, Director
Pierce County Public Works and Utilities
2401 S. 35th, Room 150
Tacoma, WA 98409-7485

8. **Choice of Law, Jurisdiction and Venue.** This agreement shall be governed by, construed, and enforced in accordance with the laws and regulations of the United States, the State of Washington, and the ordinances of the Pierce County. The venue of any action arising out of or in any way relating to this agreement, or the Project, shall be in the Superior Court of Pierce County, Washington.

9. **No Waiver.** The failure of either Grantor or Grantee to insist upon the performance of any of the terms and conditions of this agreement, or the waiver of any breach of any of the terms and conditions of this agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

10. **Attorney Fees and Costs.** In the event of any controversy, claim, or dispute arising out of or in any way relating to this agreement or its breach, the prevailing party shall be entitled to recover its cost and reasonable attorney fees.

11. **Effect of Partial Invalidity.** The invalidity of any portion of this agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any other portion of this agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

12. **Entire Agreement.** This agreement shall constitute the entire agreement between the parties and any prior oral understanding or representation of any kind preceding the date of this agreement shall not be binding upon either party except to the extent incorporated in this agreement.

13. Modification of Agreement. Any modification of this agreement or additional obligation assumed by either party in connection with this agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

14. Authorization to Sign. The parties hereto each represent and warrant that all necessary signatures and consents to enter this agreement/easement and to assume and perform the obligations hereunder have been duly and properly obtained.

15. Covenants Running with the Land. The above covenants and agreements are covenants running with the land binding the Grantor and Grantee, their heirs, devisees, executors, administrators, grantees, assigns and successors in interest.

_____ Signature	_____ Signature	_____ Signature
_____ Address	_____ Address	_____ Address
_____ Zip	_____ Zip	_____ Zip

STATE OF WASHINGTON)
) ss.
County of Pierce)

I certify that I know or have satisfactory evidence that _____
_____ is the person who appeared before me, and
said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was
authorized to execute the instrument and acknowledged it as the _____
of _____ to be
the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

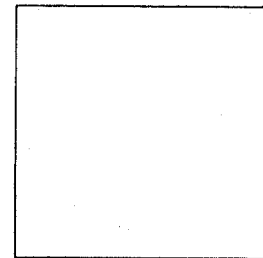
DATED this _____ day of _____, 20____.

Signature

Print Name

Title

My Appointment Expires



APPROVED as to form only:

Accepted By:

Pierce County Prosecuting Attorney

Pierce County Executive Date

**Attachment 1 to Storm Drainage Easement for Public Stormwater (Discharge) to
Lakeland Fire Station #33**

Legal Description

Those portions of Section 5, Township 20 North, range 5 East, Willamette Meridian, Pierce County, Washington described as follows, The North half of the Southeast quarter of the Northeast quarter excepting therefrom: the East 30.00 feet thereof conveyed to Pierce County within deed recorded under A.F.N. 2277811 and also excepting therefrom any portion conveyed to El Paso Natural Gas Company by deed recorded under A.F.N. 2410280.

Also:

The Northeast quarter of the Southwest quarter of said Northeast quarter the North half of the Southeast quarter of the Southwest quarter of the Northeast quarter, the Southwest quarter of the Southeast quarter of the Southwest quarter of said Northeast quarter

Except any portion of the above described subdivisions lying southerly and westerly of the following described line: commencing at the Southwest corner of the Southeast quarter of the Southwest quarter of the Northeast quarter of said Section 5, thence North 03°05'14" East 468.44 feet along the West line of said subdivision to the point of beginning; thence south 15°16'27" East 119.38 feet; thence South 12°17'54" East 179.43 feet to the Northerly line of Lake Tapps Parkway right-of-way; thence north 89°09'19" East along said northerly line 101.63 feet to the east line of the Southwest quarter of the Southeast quarter of the Southwest quarter of the Northeast quarter of said section, being the terminus of this line description.